

## **POLICIES FOR COMMENT | 500**

**500** Traffic Function and Responsibility

**501** Traffic Crash Response and Reporting

**502** Vehicle Towing and Release

**503** Impaired Driving

**505** Disabled Vehicles

**506** Abandoned Vehicle Violations

**NAVIGATE TO THE POLICY BY CLICKING THE NUMBER OR TITLE**

# Traffic Function and Responsibility

## 500.1 PURPOSE AND SCOPE

Best Practice

The goal of traffic law enforcement is to reduce traffic crashes and improve the safety and quality of life for the community through traffic law compliance. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on crash data, enforcement activity records, traffic volume, traffic conditions and other data. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in crash situations but also in terms of traffic-related needs.

## 500.2 TRAFFIC FOCUSED OFFICER DEPLOYMENT

Best Practice MODIFIED

Several factors are considered in the development of deployment schedules for officers of the Fitchburg Police Department. Information provided by the Wisconsin Department of Transportation (WisDOT) is a valuable resource for traffic crash occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of traffic laws and address crash-causing violations during those periods and at those locations where the incidence of crashes is increased. As a matter of routine, all officers will take directed enforcement action on request, and random enforcement action when appropriate, against violators. All officers shall maintain high visibility while working general enforcement, especially at high-crash incidence locations.

Other factors to be considered for deployment are citizen requests, construction zones, school zones or special events.

## 500.3 ENFORCEMENT

State MODIFIED

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. Factors such as the violator's socio-economic status, political

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office or affiliation, race, sex, age, or any racial/bias-based profiling element are inappropriate factors to consider when making violation enforcement decisions. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Wis. Stat. § 349.025(2)). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of crashes:

#### 500.3.1 WARNINGS

##### Best Practice

Warnings are a non-punitive option that may be considered by the member when circumstances warrant, such as when a minor violation was inadvertent.

#### 500.3.2 TRAFFIC CITATIONS

##### State

Traffic citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers shall provide the following information at a minimum (Wis. Stat. § 345.27):

- (a) Explanation of the violation or charge (Wis. Stat. § 345.27):
  - 1. That certain convictions may result in revocation or suspension of the person's operating privileges, if the conviction will have that effect
  - 2. That demerit points may be assessed against the person's driving record for the offense
  - 3. The number of demerit points that is cause for revocation or suspension
- (b) Court appearance procedure, including the optional or mandatory appearance by the motorist
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court
- (d) The court contact information

#### 500.3.3 TRAFFIC CITATION COURT JURISDICTION

##### State

An officer who issues a traffic citation shall ensure that the citation is properly directed to the court with jurisdiction in which the violation is alleged to have occurred (Wis. Stat. § 345.11(2); Wis. Stat. § 345.11(5)).

#### 500.3.4 PHYSICAL ARREST

##### State

Physical arrest can be made on a number of criminal traffic offenses (Wis. Stat. § 345.22). These physical arrest cases usually deal with, but are not limited to:

- (a) Vehicular homicide
- (b) Operating a vehicle while under the influence of alcohol/drugs

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- (c) Felony or misdemeanor hit-and-run
- (d) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances
- (e) Inability to positively identify the violator, the violator has no permanent address or ties to the community, or the violator is an out-of-state resident

#### **500.4 SUSPENDED OR REVOKED DRIVER LICENSE**

##### **State**

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Wis. Stat. § 343.44.

#### **500.5 HIGH-VISIBILITY VESTS**

##### **Federal**

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601).

Although intended primarily for use while performing traffic-related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

##### **500.5.1 REQUIRED USE**

##### **Federal**

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, crash investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used anytime a plainclothes officer might benefit from being readily identified as an officer.

##### **500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS**

##### **Best Practice** **MODIFIED**

High-visibility vests are issued to each officer. Officers are responsible to ensure they have their issued high visibility traffic vest with them when on duty. High visibility traffic vests shall be maintained in the side box of each police motorcycle, and in the saddlebag or gear box of each police bicycle. Each vest should be stored in such a manner as to protect and maintain the vest

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in a serviceable condition. Before going into service, each employee shall ensure they have a serviceable high-visibility vest is properly stored.

Additional high-visibility vests will be maintained for replacement of damaged or unserviceable vests. The Deputy Chief should be promptly notified whenever the supply of vests needs replenishing.

#### **500.6 PATROL LIEUTENANT RESPONSIBILITIES**

##### **Discretionary**

The Patrol Lieutenant is responsible for developing, maintaining and reviewing detailed procedures for the enforcement of traffic laws. Traffic procedures shall include, but are not limited to, the following:

- Interaction with specific categories of violators
  - Non-residents of the department jurisdiction
  - Juveniles
  - Legislators
  - Foreign Diplomats and Consular Representatives (see policy by the same name)
  - Active military members
- Required information provided to violators
- General enforcement procedures including, but not limited to, violations relating to the following:
  - Operating a vehicle under the influence of alcohol or drugs
  - Operating a vehicle on a suspended or revoked license
  - Speed
  - Hazardous operations
  - Off-road vehicle
  - Equipment
  - Public carrier or commercial vehicle
  - Non-hazardous
  - Multiple
  - Newly enacted laws and/or regulations
  - Violations resulting in traffic crashes
  - Pedestrian and bicycle
- Roadside safety checks
- Stopping and approaching vehicles
- Officer-violator relations

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- Radar and other speed-measuring devices
- License re-examination referrals
- Processing requests and providing law enforcement escort services including funerals, parades, dignitaries, and civilian and over-sized vehicles.
- Traffic direction and control under a variety of circumstances

# Traffic Crash Response and Reporting

## 501.1 PURPOSE AND SCOPE

State

The policy provides guidelines for responding to and investigating traffic crashes.

## 501.2 POLICY

State

It is the policy of the Fitchburg Police Department to respond to traffic crashes and render or summon aid to injured victims as needed. The Department will investigate and prepare reports according to the established minimum reporting requirements with the goal of reducing the occurrence of crashes by attempting to identify the cause of the crash and through enforcing applicable laws. Unless restricted by law, traffic crash reports will be made available to the public upon request (Wis. Stat. § 346.70(4)).

## 501.3 RESPONSE

Best Practice MODIFIED

Upon arriving at the scene, the responding member should assess the need for additional resources and summon assistance as appropriate. Generally, the member initially dispatched to the scene will be responsible for the investigation and report, if required, unless responsibility is reassigned by a supervisor.

A supervisor should be immediately notified when the incident:

- (a) Is within the jurisdiction of this department and there is:
  - 1. A life-threatening injury.
  - 2. A fatality.
  - 3. A City vehicle involved.
  - 4. A City official or employee involved.
  - 5. An on- or off-duty member of this department involved.
- (b) Is within another jurisdiction and there is:
  - 1. A City of City of Fitchburg vehicle involved.
  - 2. A City of City of Fitchburg official involved.
  - 3. An on-duty member of this department involved.

### 501.3.1 MEMBER RESPONSIBILITIES

Best Practice

Upon arriving at the scene, the responding member should consider and appropriately address:

- (a) Traffic direction and control.

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- (b) Proper placement of emergency vehicles, cones, roadway flares, or other devices if available to provide protection for members, the public, and the scene.
- (c) First aid for any injured parties if it can be done safely.
- (d) The potential for involvement of hazardous materials.
- (e) The need for additional support as necessary (e.g., traffic control, emergency medical services, fire department, hazardous materials response, tow vehicles).
- (f) Clearance and cleanup of the roadway.

#### 501.4 NOTIFICATION

**Best Practice** **MODIFIED**

If a traffic crash involves a life-threatening injury or fatality, the responding officer shall notify the Shift Sergeant. The Shift Sergeant or any supervisor may assign a traffic investigator or other appropriate personnel to investigate the incident. The Shift Sergeant will ensure notification is made to the Patrol Lieutenant, department command staff, and City Administrator in accordance with the Major Incident Notification Policy.

##### 501.4.1 NOTIFICATION OF FAMILY

**Best Practice**

In the event of a life-threatening injury or fatality, the supervisor responsible for the incident should ensure notification of the victim's immediate family or coordinate such notification with the Medical Examiner, department chaplain, or another suitable person. Notification should be made as soon as practicable following positive identification of the victim.

The identity of any person seriously injured or deceased in a traffic crash should not be released until notification is made to the victim's immediate family.

#### 501.5 MINIMUM REPORTING REQUIREMENTS

**State**

A crash report shall be taken when (Wis. Stat. § 346.70(4)(b)):

- (a) The crash originated or terminated on a traffic way, or public or private premises as outlined within Wis. Stat. § 346.66, and involved at least one motor vehicle in transport and resulted in any of the following (Wis. Stat. § 346.70):
  - 1. Injury or fatality of a person
  - 2. Total damage to one person's property that is reasonably believed to be \$1,000 or more
  - 3. Damage to government-owned property that is reasonably believed to be \$200 or more, except to government-owned vehicles, which is \$1,000 or more

Motor vehicle crashes that do not meet the above criteria are considered non-reportable and may be documented in a general information report in lieu of the WisDOT report form. The information contained in the general information report shall be sufficient to complete the WisDOT report form



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should it later be determined that the crash involved injuries or property damage that meet the state criteria of a reportable crash.

#### 501.5.1 PRIVATE PROPERTY

State MODIFIED

Generally, reports should not be taken when a traffic crash occurs on private property unless it involves an injury or fatality, a hit-and-run violation with suspect information, or other traffic law violation. Members may provide assistance to motorists as a public service, such as exchanging information and arranging for the removal of the vehicles.

#### 501.5.2 CITY VEHICLE INVOLVED

Best Practice MODIFIED

A traffic crash report shall be taken when a City vehicle is involved in a traffic crash that results in property damage or injury.

A general information report may be taken in lieu of a traffic crash report at the direction of a supervisor when the incident occurs entirely on private property or does not involve another vehicle.

Whenever there is damage to a City vehicle, a vehicle damage report shall be completed and forwarded to the appropriate Section Commander. The traffic investigator or supervisor at the scene should determine what photographs should be taken of the scene and the vehicle damage.

There may be situations where it would be appropriate for an outside agency to investigate the crash. The supervisor should evaluate the situation and determine the best course of action.

#### 501.5.3 TRAFFIC CRASHES INVOLVING DIPLOMATIC OR CONSULAR CONTACTS

Best Practice

When a member of this department investigates or receives a report of a traffic crash in which the operator of any vehicle involved in the crash displays a driver's license issued by the U.S. Department of State (DOS) or the person claims immunity or privilege under 22 USC § 254a through 22 USC § 258a, with respect to the operator's violation of any state traffic law or any local traffic law enacted by any local authority in accordance with Wis. Stat. § 349.06, the department member shall do the following (Wis. Stat. § 346.70(4)(i)):

- (a) As soon as practicable, contact the DOS Office of Foreign Missions (OFM) Diplomatic Security Command Center, Diplomatic Motor Vehicle Office to verify the status and immunity, if any, of the driver claiming diplomatic immunity.
- (b) Within 10 days after the date of the crash, forward a copy of the crash report to the DOS OFM Diplomatic Motor Vehicle Office.

#### 501.6 INVESTIGATION

Best Practice

When a traffic crash meets minimum reporting requirements the investigation should include, at a minimum:

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- (a) Identification and interview of all involved parties.
- (b) Identification and interview of any witnesses.
- (c) A determination of whether a violation of law has occurred and the appropriate enforcement action.
- (d) Identification and protection of items of apparent evidentiary value.
- (e) Documentation of the incident as necessary (e.g., statements, measurements, photographs, collection of evidence, reporting) on the appropriate forms.

#### 501.6.1 INVESTIGATION BY OUTSIDE LAW ENFORCEMENT AGENCY

**Best Practice** **MODIFIED**

The Patrol Lieutenant or on-duty Shift Sergeant should request that the Wisconsin State Patrol or other outside law enforcement agency investigate and complete a traffic crash investigation when a life-threatening injury or fatal traffic crash occurs within the jurisdiction of the Fitchburg Police Department and involves:

- (a) An on- or off-duty member of the Department.
- (b) An on- or off-duty official or employee of the City of Fitchburg Police Department.

Department members shall promptly notify a supervisor when any department vehicle is involved in a traffic crash. The crash investigation and report shall be completed by the agency having jurisdiction.

#### 501.7 ENFORCEMENT ACTION

**Best Practice**

After a thorough investigation in which physical evidence or independent witness statements indicate that a violation of a traffic law contributed to the crash, authorized members should issue a municipal citation or arrest the offending driver, as appropriate.

More serious violations, such as driving under the influence of drugs or alcohol, vehicular manslaughter, or other felonies, shall be enforced. If a driver who is subject to enforcement action is admitted to a hospital, a supervisor shall be contacted to determine the best enforcement option.

#### 501.8 REPORTS

**Best Practice** **MODIFIED**

Department members shall utilize the written or automated report forms approved by WisDOT as required for the reporting of traffic crashes. All crash reports require a brief narrative detailing the circumstances of the crash within a separate incident report. All such reports shall be forwarded to the appropriate supervisor for approval and filing.

##### 501.8.1 REPORT MODIFICATION

**Best Practice** **MODIFIED**

A change or modification of a written report that alters a material fact in the report may be made only by the officer who prepared the report and only prior to its approval and distribution. Once

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a report has been approved and distributed, corrections shall only be made by way of a written supplemental report. A written supplemental report may be made by any authorized officer.

If the modification is to add a fatality, a Wisconsin Motor Vehicle Fatal Accident Supplement Form shall be completed and a Transaction Information for the Management of Enforcement (TIME) administrative message sent to Motor Vehicle Fatality Reporting. A fatality is any injury received in a traffic crash that results in death within 30 days of the crash.

#### 501.8.2 DEPARTMENT RESPONSIBILITIES

**Best Practice** **MODIFIED**

The responsibilities of department personnel regarding traffic crash information include but are not limited to:

- (a) Ensuring the monthly and quarterly reports on traffic crash information and statistics are forwarded to the Chief of Police or other persons as required.
- (b) Forwarding the original written or automated format WisDOT report form for all reportable accidents to WisDOT within 10 days of the date of the crash (Wis. Stat. § 346.70(4)(a)).
- (c) Forwarding a copy of the WisDOT report form to the governing body where the crash occurred (Wis. Stat. § 346.70(4)(h)).
- (d) Review and analysis of traffic crash data to determine selective enforcement activities.
- (e) Traffic direction and control procedures.
- (f) Traffic crash and reporting procedures that include, at a minimum, protocol for the following crash conditions:
  1. Death or injury
  2. Hit and run
  3. Property damage only
  4. Damage to public vehicles or property
  5. Hazardous materials
  6. Occurrences on private property

# Vehicle Towing and Release

## 502.1 PURPOSE AND SCOPE

### Best Practice

This policy provides the procedures for towing a vehicle by or at the direction of the Fitchburg Police Department.

## 502.2 IMPOUNDS

### State

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 48 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately (Wis. Stat. § 349.13(3)).

The responsibilities of those employees storing or impounding a vehicle are as follows.

### 502.2.1 REMOVAL FROM A TRAFFIC CRASH SCENE

#### Best Practice MODIFIED

When a vehicle has been involved in a traffic crash and must be removed from the scene, the officer shall have the driver select a towing company, if reasonably possible, and shall relay the request for the specified towing company to Dispatch. When there is no preferred company requested, a company will be selected from the list of towing companies in Dispatch.

If the owner is incapacitated or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a crash, the officer shall request the dispatcher to call a company selected from the rotational list of towing companies.

### 502.2.2 STORAGE AT AN ARREST SCENE

#### Best Practice

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by towing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be towed (e.g., traffic hazard, high-crime area).

Situations where consideration should be given to leaving a vehicle at the scene in lieu of towing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition, include:

- A traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.

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- Whenever the licensed owner of the vehicle is present, willing and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be towed and the owner requests that it be left at the scene. In such cases the owner shall be informed that the Department will not be responsible for theft or damages.

#### 502.2.3 DRIVING A NON-CITY VEHICLE

**Best Practice** **MODIFIED**

Vehicles that have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with parking regulations, or with the permission of the owner/driver.

#### 502.2.4 DISPATCHER'S RESPONSIBILITIES

**Best Practice** **MODIFIED**

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

When there is no preferred company requested, the dispatcher shall call approved towing companies.

#### 502.2.5 RECORDS SECTION RESPONSIBILITY

**State**

Approved vehicle impound/storage forms shall be promptly filed so that they are immediately available for release or review should inquiries be made.

Records Section personnel shall promptly enter pertinent data from the completed vehicle report form into the Wisconsin Department of Justice Transaction Information for the Management of Enforcement (TIME) system and return the form for approval.

Within 24 hours of the impound of a vehicle ordered to be removed by a member of this department, it shall be the responsibility of the Records Section to notify the towing service of the name and last-known address of the vehicle's registered owner and lien holders of record, unless the towing services agreement requires the City to notify the owner and lien holders of the towing.

Records Section personnel shall determine the names and addresses of any individuals having an interest in the vehicle through WisDOT or TIME computers. Notice shall be sent to all such individuals by certified mail. The notice shall include:

- (a) The name, address, and telephone number of this department.
- (b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.

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- (c) The authority and purpose for the removal of the vehicle.
- (d) A statement that, in order to receive a post-impound hearing, the owner, or his/her agent, shall request the hearing in person, in writing or by telephone within 10 days of the date appearing on the notice.

#### **502.3 TOWING SERVICES**

**Best Practice** **MODIFIED**

The City of City of Fitchburg periodically selects one or more firms to act as official tow services s. Those firms will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is being held as evidence in connection with an investigation.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles and the removal of vehicles obstructing traffic in violation of state or local regulations.

#### **502.4 PRESERVATION OF EVIDENCE**

**Federal**

An officer removing a vehicle, who has probable cause to believe that the vehicle or its contents constitute any evidence which tends to show that a criminal offense has been committed, or tends to show that a particular person has committed a criminal offense, should ensure that all legally required and reasonably necessary efforts to preserve the evidence, including but not limited to, safe storage, are taken until the evidence is released to the owner or otherwise disposed of according to law.

#### **502.5 SECURITY OF VEHICLES AND PROPERTY**

**Best Practice**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, an officer should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cellular telephone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property.

Any personal property shall be returned to the owner of the vehicle during regular office hours upon presentation of proper identification (Wis. Stat. § 349.13(5)(b)(2)).

# Impaired Driving

## 503.1 PURPOSE AND SCOPE

Best Practice

This policy provides guidance to those department members who play a role in the detection and investigation of operating while intoxicated (OWI).

## 503.2 POLICY

Best Practice

The Fitchburg Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Wisconsin's impaired driving laws.

## 503.3 INVESTIGATIONS

Best Practice **MODIFIED**

Officers should not enforce OWI laws to the exclusion of their other duties unless specifically assigned to OWI. All officers are expected to enforce these laws with due diligence.

The Patrol Section Commander will develop and maintain, in consultation with the prosecuting attorney, OWI related forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any OWI investigation will be documented using these forms, as well as an incident report. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in Wisconsin or another jurisdiction.

## 503.4 FIELD TESTS

Best Practice **MODIFIED**

The Patrol Section Commander should identify standardized FSTs when investigating violations of OWI laws. Any alternative tests used by officers must be fully documented and explained in the report.

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#### 503.5 CHEMICAL TESTS

State **MODIFIED**

A person implies consent under Wisconsin law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Wis. Stat. § 343.305):

- (a) The officer has arrested the person for operating a motor vehicle while under the influence of an intoxicant, controlled substance, or any other drug.
- (b) The officer has arrested the person for operating a motor vehicle with a detectable amount of a restricted controlled substance in the person's blood.
- (c) The officer has arrested the person for operating a motor vehicle with a prohibited alcohol concentration.
- (d) The officer has arrested a person under the age of 21 who has any detectable amount of alcohol in his/her system.
- (e) The officer has arrested a person who was operating a commercial motor vehicle while having an alcohol concentration of 0.04 or more.
- (f) The officer has arrested the person for causing injury to another person while OWI or with a prohibited alcohol concentration or a detectable amount of a restricted controlled substance in his/her blood.
- (g) The officer has arrested the person for causing injury to another person while operating a commercial motor vehicle with an alcohol concentration of 0.04 or more.
- (h) The officer has arrested the person for a violation of Wis. Stat. § 940.25 (injury by intoxicated use of a vehicle).
- (i) The officer has arrested the person for a violation of Wis. Stat. § 940.09 (homicide by intoxicated use of vehicle or firearm).
- (j) The person was involved in an accident resulting in substantial bodily harm to any person and the officer detects any presence of alcohol, a controlled substance, a controlled substance analog, or other drug (Wis. Stat. § 343.305(3)(ar)).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious) the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample. If consent is unable to be given or withdrawn, the officer should seek a search warrant if the offense warrants it.

##### 503.5.1 STATUTORY NOTIFICATIONS

State

An officer requesting that a person submit to a chemical test shall read to the person the mandatory statutory warning provided by Wis. Stat. § 343.305(4).

##### 503.5.2 BLOOD SAMPLES

State

Only persons authorized by law to draw blood shall collect blood samples (Wis. Stat. § 343.305(5)(b)). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task (Wis. Stat. § 343.305(5)(b)).



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Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be drawn for alternate testing. Unless medical personnel object, two samples should be drawn and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

#### 503.5.3 BREATH SAMPLES

**Best Practice** **MODIFIED**

The Deputy Chief should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Shift Sergeant.

#### 503.5.4 URINE SAMPLES

**Best Practice**

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee tested should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample.

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

#### 503.6 REFUSALS

**State**

When an arrestee refuses to provide a chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (Wis. Stat. § 343.305).
- (b) Audio- and/or video-record the admonishment and the response when it is practicable.
- (c) Document the refusal in the appropriate report.

##### 503.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL

**State**

Upon refusal to submit to a chemical test as required by law, officers shall serve the person with the notice of intent to revoke the person's operating privilege (Wis. Stat. § 343.305).

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The officer shall forward copies of the notice to the appropriate prosecuting attorney, as well as the Wisconsin Department of Transportation (WisDOT), in the manner prescribed by WisDOT. If the person was operating a commercial motor vehicle, the officer shall issue the person a 24-hour out-of-service order (Wis. Stat. § 343.305(9)).

#### 503.6.2 BLOOD SAMPLE WITHOUT CONSENT

##### **Best Practice**

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained.
- (b) The officer can articulate that exigent circumstances exist, the person has been arrested for OWI, the officer reasonably believes that a chemical test will reveal evidence of intoxication, and no reasonable objection to the withdrawal has been presented by the arrestee. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts, such as a lengthy delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

#### 503.6.3 FORCED BLOOD SAMPLE

##### **Best Practice**

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes, a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer), and attempt to persuade the individual to submit to such a sample without physical resistance. This dialogue should be recorded on audio and/or video when practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances.
  - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.

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2. In first-time OWI and misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

#### 503.6.4 OFFICER ACCESS TO ADDITIONAL SAMPLE

**State**

If a person refuses to submit to a chemical test but has had a sample of blood, urine or other bodily substance taken for any reason, the officer may obtain a portion of that sample sufficient for analysis or may request that a sample be available as allowed by law (Wis. Stat. § 905.04(4)(f)).

#### 503.7 ARREST AND INVESTIGATION

**State**

##### 503.7.1 CRASHES

**State**

Officers investigating a person for OWI shall make all reasonable efforts to obtain a chemical sample if the person was involved in a crash that resulted in a fatality or serious physical injury (Wis. Stat. § 343.305(2)).

##### 503.7.2 OFFICER RESPONSIBILITIES

**State**

If a chemical test indicates the presence of a controlled substance or a prohibited alcohol concentration, the officer shall forward the result to WisDOT (Wis. Stat. § 343.305(7)). The person shall be informed that his/her driving privilege will be administratively suspended for six months and that the person has the right to an administrative hearing. The form to request the administrative review shall be provided to the person (Wis. Stat. § 343.305(8)). If the person was operating a commercial motor vehicle, the officer shall also issue the person an out-of-service order.

##### 503.7.3 PRELIMINARY BREATH TESTING

**State**

An officer who has probable cause to believe that a person has committed OWI or where the officer detects any presence of alcohol, a controlled substance or any other drug on a person operating a commercial motor vehicle, may request that the person submit to a preliminary breath test (PBT). The result of the PBT may be used by the officer in deciding whether to arrest the person and

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whether to require or request additional chemical testing under Wis. Stat. § 343.305(3). A person may refuse to take the PBT (Wis. Stat. § 343.303).

#### 503.7.4 ARRESTEE RELEASE

State **MODIFIED**

If allowed by the rules of the court, a person arrested for OWI may be released to a responsible adult. The individual to whom the person is released is required to sign an OWI Responsibility Release containing his/her name and address, and that he/she will be responsible for the person.

A person arrested for OWI who is unable to be released to a responsible adult may not be released until 12 hours have elapsed or until a chemical test administered under Wis. Stat. § 343.305 shows a blood alcohol content of less than 0.04 (Wis. Stat. § 345.24). An arrested person will be transported to the Dane County Jail for the 12-hour hold.

#### 503.7.5 ADDITIONAL TESTING

State

If a person submits to a chemical test requested pursuant to the implied consent law, he/she is entitled to a reasonable opportunity, upon request, to have additional chemical testing done (Wis. Stat. § 343.305(5)).

#### 503.7.6 QUALITY ASSURANCE

Best Practice

This department shall utilize a quality assurance program conducted by quality assurance specialists or operators regarding devices that are used to conduct alcohol concentration determinations, and shall generate records of periodic maintenance of those devices pursuant to any applicable state law (Wis. Stat. § 343.305(6)).

### 503.8 RECORDS SECTION RESPONSIBILITIES

State

The Administrative Services Manager will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office and WisDOT (Wis. Stat. § 343.305(7); Wis. Stat. § 343.305(8); Wis. Stat. § 343.305(9)).

### 503.9 ADMINISTRATIVE HEARINGS

Best Practice

The Administrative Services Manager will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to WisDOT.

Any officer who receives notice of required attendance at an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer called to testify at an administrative hearing should document the hearing date and WisDOT file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

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### **503.10 TRAINING**

**Best Practice**

The Deputy Chief should ensure that officers participating in the enforcement of OWI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to OWI investigations. The Deputy Chief should confer with the prosecuting attorney's office and update training topics as needed.

## Disabled Vehicles

### 505.1 PURPOSE AND SCOPE

**Best Practice**

The Fitchburg Police Department has adopted this policy regarding providing assistance to motorists in disabled vehicles within this organization's jurisdiction.

### 505.2 OFFICER RESPONSIBILITIES

**Best Practice**

When an on-duty officer observes a disabled vehicle, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer or other department member to respond as soon as practicable.

### 505.3 EXTENT OF ASSISTANCE

**Best Practice**

In most cases, a disabled motorist will require assistance. After assistance is rendered or arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of department resources and the vulnerability of the disabled motorist.

#### 505.3.1 MECHANICAL REPAIRS

**Best Practice** **MODIFIED**

Department personnel shall not make mechanical repairs to a disabled vehicle.

#### 505.3.2 RELOCATION OF DISABLED VEHICLES

**Best Practice**

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

# Abandoned Vehicle Violations

## 506.1 PURPOSE AND SCOPE

Best Practice

This policy provides procedures for the marking, removal and recording of vehicles abandoned in violation of abandoned vehicle laws or ordinances or that must be removed due to an emergency.

## 506.2 TAGGING VEHICLES

Discretionary MODIFIED

Vehicles on public roadways suspected of being abandoned in violation of state or local laws shall be tagged and noted in the Fitchburg Police Department report or documented via the computer aided dispatch (CAD) system. N

Reasonable attempts should be made by the investigating member to identify and notify the owner of the pending removal of the vehicle using information available from the Wisconsin Department of Justice Transaction Information for the Management of Enforcement (TIME) system. This may be accomplished by personal contact, telephone or by leaving notice attached to the vehicle prior to removal.

If a tagged vehicle has been moved or the tag has been removed during a reasonable investigation period, the vehicle shall be tagged again for the abandonment violation and a report completed and forwarded to the Patrol Section or a CAD update completed.

### 506.2.1 TAGGED VEHICLE FOLLOW-UP

Discretionary MODIFIED

Officers shall be responsible for any investigation or routing of abandoned violations that the officer initiates.

Civilian Service Employees (CSEs) will generally be responsible for the follow-up investigation of all abandoned violations when forwarded by officers.

## 506.3 VEHICLE REMOVAL

Best Practice MODIFIED

Any abandoned vehicle qualifying for a tow should be removed by the authorized towing service and a vehicle removal form shall be completed by the officer authorizing the removal of the vehicle.

### 506.3.1 VEHICLE REMOVAL REPORTING

State MODIFIED

The vehicle removal shall be submitted to Dispatch immediately following the storage of the vehicle. It shall be the responsibility of Dispatch personnel to enter information from the vehicle removal log.